



05-27-03 41

GAU 1536

446.022

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: : G. Leffers
DIU-HERCEND et al :
Serial No.: 09/674,109 : Group: 1636
Filed: June 21, 2001 :
For: METHOD ...S.CERVISIAE :

600 Third Avenue
New York, N.Y. 10016
August 26, 2003

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

"Express Mail" mailing label No. *EV 24350614345*
Date of Deposit *Aug 26, 2003*
I hereby certify that the *Aug 26, 2003*
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Service of process *Aug 26, 2003*
service under 2 *Aug 26, 2003*
above and is addressed to the Commissioner for
Patents, P.O. Box 1450, Alexandria, VA 22313-1450
D. Valconcelos

Sir:

Responsive to the office action of August 11, 2003, Applicants request
reconsideration of the application.

The office action held that the response filed on May 27, 2003 was non-
responsive since Applicants did not indicate an election of a particular gene product.

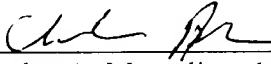
It is believed that the previous response was responsive to the office action of
April 28, 2003 since the office action merely set out a four-way restriction requirement
between four groups of claims and Applicants elected with traverse the genes of group
III, namely groups 181 to 270. The inventions were allegedly grouped since they did not
relate to a single general inventive concept under PCT Rule 13.1. There was no election
of a single species and the Examiner merely indicated that the required reply must

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include an election of the invention to be examined even though the requirement be traversed. However, since the Examiner apparently has changed his mind and is now requiring an election of species, Applicants elect with traverse YDR 181c.

Since the first office action which was issued more than two years after the filing of the application and was merely a restriction requirement, Applicants request a prompt examination on the merits.

Respectfully submitted,
Muserlian, Lucas and Mercanti



Charles A. Muserlian, 19,683
Attorney for Applicants
Tel. # (212) 661-8000

CAM:ds
Enclosure